

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

X

THOMAS FAVILLA,

Plaintiff,
-against-BROTHER ANTONIO MONTERA, ST. ANTHONY'S
HIGH SCHOOL, and THE DIOCESE OF ROCKVILLE
CENTRE,

Defendants.

X

Date Index No. Purchased:

Index No.:

Plaintiff designates Suffolk
County as the place of trial.The basis of venue is
Defendant's residence.**SUMMONS**

The Above-Named Defendants:

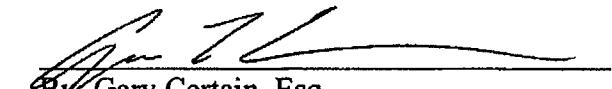
YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's Attorney(s) within twenty (20) days after the service of this summons, exclusive of the day of service (or within thirty (30) days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: New York, New York
October 28, 2019

Yours, etc.,



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-and-



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TO:

BROTHER ANTONIO MONTERA
c/o St. Anthony's High School
275 Wolf Hill Road
South Huntington, New York 11747

ST. ANTHONY'S HIGH SCHOOL
275 Wolf Hill Road
South Huntington, New York 11747

THE DIOCESE OF ROCKVILLE CENTRE
50 North Park Avenue
Rockville Centre, New York 11570

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

X

THOMAS FAVILLA,

Date Filed:
Index No.:

Plaintiff,
-against-

VERIFIED COMPLAINT

BROTHER ANTONIO MONTERA, ST. ANTHONY'S
HIGH SCHOOL, and THE DIOCESE OF ROCKVILLE
CENTRE,

Defendants.

X

Plaintiff, Thomas Favilla ("Plaintiff"), by his attorneys Slater Slater Schulman LLP and Certain & Zilberg, PLLC, brings this action against Brother Antonio Montera ("Brother Antonio") the St. Anthony's High School ("School"), and The Diocese of Rockville Centre ("Diocese"), and alleges on personal knowledge as to himself and on information and belief as to all other matters as follows:

JURISDICTION AND VENUE

1. This action is brought pursuant to the Children Victims Act ("CVA") (L. 2019 c. 11). *See CPLR § 214-g and 22 NYCRR 202.72.*
2. This Court has personal jurisdiction over Brother Antonio pursuant to CPLR §§ 301 and 302, in that Brother Antonio either resides in New York or conducts or, at relevant times conducted, activities in New York that give rise to the claims asserted herein.
3. This Court has personal jurisdiction over the School pursuant to CPLR §§ 301 and 302, in that the School either resides in New York or conducts or, at relevant times conducted, activities in New York that give rise to the claims asserted herein.

4. This Court has personal jurisdiction over the Diocese pursuant to CPLR §§ 301 and 302, in that the Diocese either resides in New York or conducts or, at relevant times conducted, activities in New York that give rise to the claims asserted herein.

5. This Court has jurisdiction over this action because the amount of damages Plaintiff seeks exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

6. Venue for this action is proper in the County of Suffolk pursuant to CPLR § 503 in that one or more defendants resides in this County, and a substantial part of the events or omissions giving rise to the claims asserted herein occurred here.

PARTIES

7. Whenever reference is made to any defendant entity, such reference includes that entity, its parent companies, subsidiaries, affiliates, predecessors, and successors. In addition, whenever reference is made to any act, deed, or transaction of any entity, the allegation means that the entity engaged in the act, deed, or transaction by or through its officers, directors, agents employees, or representatives while they were actively engaged in the management, direction, control, or transaction of the entity's business affairs.

8. Plaintiff is an individual residing in Suffolk, New York. Plaintiff was an infant at the time of the sexual abuse alleged herein.

9. At all times material to the Verified Complaint, the Diocese was and continues to be a non-profit religious corporation, organized exclusively for charitable, religious, and educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code.

10. At all times material to the Verified Complaint, the Diocese was and remains authorized to conduct business under the laws of the State of New York.

11. At all times material to the Verified Complaint, the Diocese's principal place of business is 50 North Park Avenue, Rockville Centre, New York 11570.

12. The Diocese oversees a variety of liturgical, sacramental, educational and faith formation programs.

13. The Diocese has various programs that seek out the participation of children in its activities.

14. The Diocese, through its agents, servants, and/or employees has control over those activities involving children.

15. The Diocese has the power to employ individuals working with and/or alongside children, providing said children with guidance and/or instruction under the auspices of the defendant Diocese, including but not limited to those at the School.

16. At all times material to the Verified Complaint, the School was and continues to be a religious New York State non-profit entity.

17. At all times material to the Verified Complaint, the School maintained its principal place of business at 275 Wolf Hill Road, South Huntington, New York 11747.

18. At all times material to the Verified Complaint, the School operates under the control of the Diocese.

19. At all times material to the Verified Complaint, the School operates for the benefit of the Diocese.

20. At all times material to the Verified Complaint, Brother Antonio was an agent, servant, and/or employee of the School.

21. At all times material to the Verified Complaint, Brother Antonio was an agent, servant, and/or employee of the Diocese.

22. At all times material to the Verified Complaint, while an agent, servant and/or employee of the School, Brother Antonio remained under the control and supervision of the Diocese.

23. At all times material to the Verified Complaint, while an agent, servant and/or employee of the School, Brother Antonio remained under the control and supervision of the School.

24. At all times material to the Verified Complaint, while an agent, servant and/or employee of the Diocese, Brother Antonio remained under the control and supervision of the Diocese.

25. At all times material to the Verified Complaint, while an agent, servant and/or employee of the Diocese, Brother Antonio remained under the control and supervision of the School.

26. The School placed Brother Antonio in positions where he had immediate access to children.

27. The Diocese placed Brother Antonio in positions where he had immediate access to children.

**THE CATHOLIC CHURCH'S LONG HISTORY
OF COVERING UP CHILD SEXUAL ABUSE**

28. In 1962, the Vatican in Rome issued a Papal Instruction binding upon all Bishops throughout the world including the Bishop of the Diocese. The instruction was binding upon the Bishop of the Diocese. The instruction directed that allegations and reports of sexual abuse of children by priests were required to be kept secret and not disclosed either to civil authorities such as law enforcement, to co-employees or supervisors of parish priests, or to parishioners generally.

29. Canon law requires Bishops to keep *subsecreto* files also known as confidential files. These files are not to be made public.

30. Because of problems of sexual misconduct of Catholic clergy, the Catholic Church and other organizations sponsored treatment centers for priests that had been involved in sexual misconduct, including centers in Albuquerque, New Mexico, Suitland, Maryland, Downingtown Pennsylvania, and Ontario, Canada.

31. Sexual abuse of clerics by Catholic clergy has been a reality in the Catholic Church for centuries but has remained covered by deep secrecy. This secrecy is rooted in the official policies of the Catholic Church which are applicable to all dioceses and in fact are part of the practices of each diocese, including the Diocese. Sexual abuse of minors by Catholic clergy and religious leaders became publicly known in the mid 1980's as a result of media coverage of a case in Lafayette, Louisiana. Since that time, the media has continued to expose cases of clergy sexual abuse throughout the United States. In spite of these revelations as well as the many criminal and civil litigations the Church has been involved in as a result of clergy sexual abuse of minors, the bishops and other Church leaders continued to pursue a policy of secrecy.

32. All of the procedures required in the so-called "Dallas Charter" to purportedly protect children have been previously mandated in the Code of Canon Law but were consistently ignored by Catholic bishops. In place of the required processes, which would have kept a written record of cases of clergy sexual abuse, the bishops applied a policy of clandestine transfer of accused priests from one local or diocesan assignment to another or from one diocese to another. The receiving parishioners and often the receiving pastors were not informed of any accusations of sexual abuse of minors.

33. The truth concerning the extent of the frequency of sexual abuse at the hands of Catholic priests and Catholic Church's pervasive campaign to cover up such crimes continues to be revealed. In approximately 2003, the Suffolk County Supreme Court Special Grand Jury issued a Report ("Grand Jury Report"), which investigated child sexual abuse by the Diocese's priests. The Report documented the Diocese's cover up of sexual abuse. In the course of the Grand Jury investigation, it heard testimony from 97 witnesses and considered hundreds of pages of documents regarding priests of the Diocese sexually violating children.

34. The Grand Jury Report contains a number of startling observations and conclusions, including:

- "A general failure of supervision from officials of the Diocese, to individual pastors and other priests living in rectories, compounded and perpetuated these violations with devastating consequences for children."
- "Priests committed crimes against children of the Diocese. These crimes were treated as a matter of sin and never reported to law enforcement authorities."
- "The culture of the Diocese was one of secrecy and obfuscation. Diocesan officials purposely withheld information from parishioners and from their own priests and pastors."
- "Most children did not report the crimes against them until long after the criminal statute of limitations had lapsed. Those who did were promised help but received little. Instead, they were ignored, belittled and revictimized."
- "In some cases... the Diocese procrastinated for the sole purpose of making sure that the civil and criminal statutes of limitation were no longer applicable in the cases."
- "The policy was to avoid scandal by the suppression of information. Priests and Diocesan officials lied about what they knew about sexually abusive priests to their parishioners and to the public at large. This policy put children at grave risk."
- "The response of priests in the Diocesan hierarchy to allegations of criminal sexual abuse was no pastoral. In fact, although there was a written policy that set forth a pastoral tone, it was a sham."

- “Abusive priests were protected under the guise of confidentiality; their histories mired in secrecy. Professional treatment recommendations were ignored, and dangerous priests allowed to minister to children.”

35. In approximately 2004, the Diocese publicly admitted that it knew of 66 priests who worked in the Diocese who had been accused of sexually molesting minors. The Diocese has never publicly released those names. As a result, children are at risk of being sexually molested. Further, the public is placed under the mistaken belief that Defendants do not have undisclosed knowledge of clerics who present a danger to children.

36. Refusal to disclose sexually abusing clerics to parishioners and even fellow clerics has been one way utilized by Defendant to maintain secrecy. Another has been to use various forms of persuasion on victims or their families to convince them to remain silent about incidents of abuse. These forms of persuasion have included methods that have ranged from sympathetic attempts to gain silence to direct intimidation to various kinds of threats. In so doing the clergy involved, from bishops to priests, have relied on their power to overwhelm victims and their families.

37. The sexual abuse of children and the Catholic Church’s abhorrent culture of concealing these crimes are at the heart of the allegations complained of herein.

38. The Child Victims Act was enacted for the explicit purpose of providing survivors of child sexual abuse with the recourse to bring a private right of action against the sexual predators who abused them and the institutions that concealed their crimes.

FACTS

39. Plaintiff was raised in a devout Roman Catholic family and, in or around 1986, when Plaintiff was approximately fourteen (14) years old, Plaintiff began attending the School, a school within and under the auspices of the Diocese.

40. At all relevant times, Plaintiff participated in youth activities and School activities at the School.

41. The Plaintiff received educational and religious instruction from the School.

42. Brother Antonio, under the auspices of the School and Diocese, provided educational and religious instruction to the infant Plaintiff.

43. During and through these activities, Plaintiff, as a minor and vulnerable child, was dependent on the School and Brother Antonio.

44. During and through these activities, the School had physical custody of Plaintiff and accepted the entrustment of Plaintiff.

45. During and through these activities, the School had assumed the responsibility of caring for Plaintiff and had authority over him.

46. During and through these educational and religious instructional activities, Plaintiff, as a minor and vulnerable child, was dependent on the Diocese and Brother Antonio.

47. During and through these activities, the Diocese had physical custody of Plaintiff and accepted the entrustment of Plaintiff.

48. During and through these activities, the Diocese had responsibility of Plaintiff and authority over him.

49. Through Brother Antonio's positions at, within, or for the School, Brother Antonio was put in direct contact with Plaintiff, a member of the School. It was under these circumstances that Plaintiff came to be under the direction, contact, and control of Brother Antonio, who used his position of authority and trust over Plaintiff to sexually abuse and harass Plaintiff.

50. Through Brother Antonio's positions at, within, or for the Diocese, Brother Antonio was put in direct contact with Plaintiff, a member of the School. It was under these circumstances

that Plaintiff came to be under the direction, contact, and control of Brother Antonio, who used his position of authority and trust over Plaintiff to sexually abuse and harass Plaintiff.

51. On repeated occasions, while Plaintiff was a minor, Brother Antonio, while acting as a teacher, priest, counselor, trustee, director, officer, employee, agent, servant and/or volunteer of the School, sexually assaulted, sexually abused and/or had sexual contact with Plaintiff in violation of the laws of the State of New York, including the New York State Penal Law.

52. On repeated occasions, while Plaintiff was a minor, Brother Antonio, while acting as a teacher, priest, counselor, trustee, director, officer, employee, agent, servant and/or volunteer of the Diocese, sexually assaulted, sexually abused and/or had sexual contact with Plaintiff in violation of the laws of the State of New York, including the New York State Penal Law.

53. The abuse occurred from approximately in or about 1987 to 1989.

54. Plaintiff's relationship to the School, as a vulnerable minor, student, parishioner and participant in School educational and religious instructional activities, was one in which Plaintiff was subject to the School's ongoing influence. The dominating culture of the Catholic Church over Plaintiff pressured Plaintiff not to report Brother Antonio's sexual abuse of him.

55. Plaintiff's relationship to the Diocese, as a vulnerable minor, student, parishioner and participant in School educational and religious instructional activities, was one in which Plaintiff was subject to the Diocese's ongoing influence. The dominating culture of the Catholic Church over Plaintiff pressured Plaintiff not to report Brother Antonio's sexual abuse of him.

56. At no time did the Diocese ever send an official, a member of the clergy, an investigator or any employee or independent contractor to the School to advise or provide any form of notice to the parishioners either verbally or in writing that there were credible allegations

against Brother Antonio and to request that anyone who saw, suspected or suffered sexual abuse to come forward and file a report with the police department. Rather, the Diocese remained silent.

57. At all times material hereto, Brother Antonio was under the direct supervision, employ and/or control of the School.

58. At all times material hereto, Brother Antonio was under the direct supervision, employ and/or control of the Diocese.

59. The School knew and/or reasonably should have known, and/or knowingly condoned, and/or covered up, the inappropriate and unlawful sexual activities of Brother Antonio who sexually abused Plaintiff.

60. The Diocese knew and/or reasonably should have known, and/or knowingly condoned, and/or covered up, the inappropriate and unlawful sexual activities of Brother Antonio who sexually abused Plaintiff.

61. The School negligently or recklessly believed that Brother Antonio was fit to work with children and/or that any previous problems he had were fixed and cured; that Brother Antonio would not sexually molest children; and that Brother Antonio would not injure children.

62. The Diocese negligently or recklessly believed that Brother Antonio was fit to work with children and/or that any previous problems he had were fixed and cured; that Brother Antonio would not sexually molest children; and that Brother Antonio would not injure children.

63. The School had the responsibility to supervise and/or direct priests serving at the School, and specifically, had a duty not to aid a pedophile such as Brother Antonio, by assigning, maintaining and/or appointing him to a position with access to minors.

64. The Diocese had the responsibility to supervise and/or direct priests serving at the School, and specifically, had a duty not to aid a pedophile such as Brother Antonio, by assigning, maintaining and/or appointing him to a position with access to minors.

65. By holding Brother Antonio out as safe to work with children, and by undertaking the custody, supervision of, and/or care of the minor Plaintiff, the School entered into a fiduciary relationship with the minor Plaintiff. As a result of Plaintiff's being a minor, and by the School undertaking the care and guidance of the vulnerable minor Plaintiff, the School held a position of empowerment over Plaintiff.

66. By holding Brother Antonio out as safe to work with children, and by undertaking the custody, supervision of, and/or care of the minor Plaintiff, the Diocese entered into a fiduciary relationship with the minor Plaintiff. As a result of Plaintiff's being a minor, and by the Diocese undertaking the care and guidance of the vulnerable minor Plaintiff, the Diocese held a position of empowerment over Plaintiff.

67. The School, by holding itself out as being able to provide a safe environment for children, solicited and/or accepted this position of empowerment. This empowerment prevented the then minor Plaintiff from effectively protecting himself. The School thus entered into a fiduciary relationship with Plaintiff.

68. The Diocese, by holding itself out as being able to provide a safe environment for children, solicited and/or accepted this position of empowerment. This empowerment prevented the then minor Plaintiff from effectively protecting himself. The Diocese thus entered into a fiduciary relationship with Plaintiff.

69. The School had a special relationship with Plaintiff.

70. The Diocese had a special relationship with Plaintiff.

71. The School owed Plaintiff a duty of reasonable care because the School had superior knowledge about the risk that Brother Antonio posed to Plaintiff, the risk of abuse in general in its programs, and/or the risks that its facilities posed to minor children.

72. The Diocese owed Plaintiff a duty of reasonable care because the Diocese had superior knowledge about the risk that Brother Antonio posed to Plaintiff, the risk of abuse in general in its programs, and/or the risks that its facilities posed to minor children.

73. The School owed Plaintiff a duty of reasonable care because it solicited youth and parents for participation in its youth programs; encouraged youth and parents to have the youth participate in its programs; undertook custody of minor children, including Plaintiff; promoted its facilities and programs as being safe for children; held its agents including Brother Antonio out as safe to work with children; encouraged parents and children to spend time with its agents; and/or encouraged its agents, including Brother Antonio, to spend time with, interact with, and recruit children.

74. The Diocese owed Plaintiff a duty of reasonable care because it solicited youth and parents for participation in its youth programs; encouraged youth and parents to have the youth participate in its programs; undertook custody of minor children, including Plaintiff; promoted its facilities and programs as being safe for children; held its agents including Brother Antonio out as safe to work with children; encouraged parents and children to spend time with its agents; and/or encouraged its agents, including Brother Antonio, to spend time with, interact with, and recruit children.

75. The School owed Plaintiff a duty to protect Plaintiff from harm because the School's actions created a foreseeable risk of harm to Plaintiff.

76. The Diocese owed Plaintiff a duty to protect Plaintiff from harm because the Diocese's actions created a foreseeable risk of harm to Plaintiff.

77. The School's breach of its duties include, but are not limited to: failure to have sufficient policies and procedures to prevent child sexual abuse, failure to properly implement the policies and procedures to prevent child sexual abuse, failure to take reasonable measures to make sure that the policies and procedures to prevent child sexual abuse were working, failure to adequately inform families and children or the risks of child sexual abuse, failure to investigate risks of child sexual abuse, failure to properly train the workers at institutions and programs within the School, geographical confines, failure to protect children in its programs from child sexual abuse, failure to adhere to the applicable standard of care for child safety, failure to investigate the amount and type of information necessary to represent the institutions, programs, leaders and people as safe, failure to train its employees properly to identify signs of child molestation by fellow employees, failure by relying on mental health professionals, and/or failure by relying on people who claimed that they could treat child molesters.

78. The Diocese's breach of its duties include, but are not limited to: failure to have sufficient policies and procedures to prevent child sexual abuse, failure to properly implement the policies and procedures to prevent child sexual abuse, failure to take reasonable measures to make sure that the policies and procedures to prevent child sexual abuse were working, failure to adequately inform families and children or the risks of child sexual abuse, failure to investigate risks of child sexual abuse, failure to properly train the workers at institutions and programs within the Diocese, geographical confines, failure to protect children in its programs from child sexual abuse, failure to adhere to the applicable standard of care for child safety, failure to investigate the amount and type of information necessary to represent the institutions, programs, leaders and

people as safe, failure to train its employees properly to identify signs of child molestation by fellow employees, failure by relying on mental health professionals, and/or failure by relying on people who claimed that they could treat child molesters.

79. The School also breached its duties to Plaintiff by failing to warn Plaintiff and Plaintiff's family of the risk that Brother Antonio posed and the risks of child sexual abuse by clerics.

80. The School also failed to warn Plaintiff and Plaintiff's family about any of the knowledge that it had about child sexual abuse.

81. The Diocese also breached its duties to Plaintiff by failing to warn Plaintiff and Plaintiff's family of the risk that Brother Antonio posed and the risks of child sexual abuse by clerics.

82. The Diocese also failed to warn Plaintiff and Plaintiff's family about any of the knowledge that it had about child sexual abuse.

83. The School also violated a legal duty by failing to report known and/or suspected abuse of children by Brother Antonio and/or its other agents to the police and law enforcement.

84. The Diocese also violated a legal duty by failing to report known and/or suspected abuse of children by Brother Antonio and/or its other agents to the police and law enforcement.

85. By employing Brother Antonio at the School, and other facilities within the Diocese, the Diocese, through its agents, affirmatively represented to minor children and their families that Brother Antonio did not pose a threat to children, did not have a history of molesting children, that the Diocese did not know that Brother Antonio had a history of molesting children, and that the Diocese did not know that Brother Antonio was a danger to children.

86. By employing Brother Antonio at the School, the School through its agents, affirmatively represented to minor children and their families that Brother Antonio did not pose a threat to children, did not have a history of molesting children, that the School did not know that Brother Antonio had a history of molesting children, and that the School did not know that Brother Antonio was a danger to children.

87. The School induced Plaintiff and Plaintiff's family to rely on these representations, and they did rely on them.

88. The Diocese has never publicly admitted the veracity of the allegations against Brother Antonio, warned the public and/or conducted outreach to potential victims of his sexual abuse. The pattern and practice of intentionally failing to disclose the identities and locations of sexually inappropriate and/or abusive clerics has been practiced by the Diocese for decades and continues through current day. The failure to disclose the identities of allegedly sexually inappropriate and/or abusive clerics is unreasonable and knowingly or recklessly creates or maintains a condition which endangers the safety or health of a considerable number of members of the public, including Plaintiff.

89. By allowing Brother Antonio to remain in active ministry, the Diocese, through its agents, has made and continues to make affirmative representations to minor children and their families, including Plaintiff and Plaintiff's family, that Brother Antonio does not pose a threat to children, does not have a history of molesting children, that the Diocese does not know that Brother Antonio has a history of molesting children and that the Diocese does not know that Brother Antonio is a danger to children.

90. The Diocese induced Plaintiff and Plaintiff's family to rely on these representations, and they did rely on them.

91. By allowing Brother Antonio to remain in active ministry, the School, through its agents, has made and continues to make affirmative representations to minor children and their families, including Plaintiff and Plaintiff's family, that Brother Antonio does not pose a threat to children, does not have a history of molesting children, that the School does not know that Brother Antonio has a history of molesting children and that the School does not know that Brother Antonio is a danger to children.

92. The Diocese ignored credible complaints about the sexually abusive behaviors of priests.

93. The Diocese failed to act on obvious warning signs of sexual abuse, including instances where it was aware that priests had children in its private rooms in the rectory overnight, that priests were drinking alcohol with underage children and exposing them to pornography.

94. Even where a priest disclosed sexually abusive behavior with children, Diocese officials failed to act to remove him from ministry.

95. The Diocese engaged in conduct that resulted in the prevention, hinderance and delay in the discovery of criminal conduct by priests.

96. The Diocese conceived and agreed to a plan using deception and intimidation to prevent victims from seeking legal solutions to their problems.

97. As a result of Defendants' conduct described herein, Plaintiff has and will continue to suffer personal physical and psychological injuries, including but not limited to great pain of mind and body, severe and permanent emotional distress, physical manifestations of emotional distress, problems sleeping, concentrating, low self-confidence, low self-respect, low self-esteem, feeling of worthlessness, feeling shameful, and embarrassed, feeling alone and isolated, losing faith in God, losing faith in authority figures, feeling estranged from the School, struggling with

gainful employment and career advancement, feeling helpless, and hopeless, problems with sexual intimacy, relationship problems, trust issues, feeling confused and angry, depression, anxiety, feeling dirty, used, and damaged, having traumatic flashbacks, feeling that his childhood and innocence was stolen. Plaintiff was prevented and will continue to be prevented from performing Plaintiff's normal daily activities; has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling; and, on information and belief, has incurred and will continue to incur loss of income and/or loss of earning capacity. As a victim of Defendants' misconduct, Plaintiff is unable at this time to fully describe all the details of that abuse and the extent of the harm Plaintiff suffered as a result.

98. The School violated various New York statutes, including, but not limited to N.Y. Soc. Serv. Law §§ 413 and 420, which require, *inter alia*, school officials, teachers, day care center workers, providers of family or group family day care, and any other child care worker to report suspected cases of child abuse and impose liability for failure to report.

99. The Diocese violated various New York statutes, including, but not limited to N.Y. Soc. Serv. Law §§ 413 and 420, which require, *inter alia*, school officials, teachers, day care center workers, providers of family or group family day care, and any other child care worker to report suspected cases of child abuse and impose liability for failure to report.

100. The injuries and damages suffered by Plaintiff are specific in kind to Plaintiff, special, peculiar, and above and beyond those injuries and damages suffered by the public.

FIRST CAUSE OF ACTION: NEGLIGENCE

101. Plaintiff repeats and realleges by reference each and every allegation set forth above as if fully set forth herein.

102. The School knew or was negligent in not knowing that Brother Antonio posed a threat of sexual abuse to children.

103. The Diocese knew or was negligent in not knowing that Brother Antonio posed a threat of sexual abuse to children.

104. The acts of Brother Antonio described hereinabove were undertaken, and/or enabled by, and/or during the course, and/or within the scope of his employment, appointment, and/or agency with the School.

105. The acts of Brother Antonio described hereinabove were undertaken, and/or enabled by, and/or during the course, and/or within the scope of his employment, appointment, and/or agency with the Diocese.

106. The School owed Plaintiff a duty to protect Plaintiff from Brother Antonio's sexual deviancy, both prior to and/or subsequent to Brother Antonio's misconduct.

107. The Diocese owed Plaintiff a duty to protect Plaintiff from Brother Antonio's sexual deviancy, both prior to and/or subsequent to Brother Antonio's misconduct.

108. The School's willful, wanton, grossly negligent and/or negligent act(s) of commission and/or omission, resulted directly and/or proximately in the damages set forth herein at length.

109. The Diocese's willful, wanton, grossly negligent and/or negligent act(s) of commission and/or omission, resulted directly and/or proximately in the damages set forth herein at length.

110. At all times material hereto, with regard to the allegations contained herein, Brother Antonio was under the direct supervision, employ and/or control of the School.

111. At all times material hereto, with regard to the allegations contained herein, Brother Antonio was under the direct supervision, employ and/or control of the Diocese.

112. At all times material hereto, the School's actions were willful, wanton, malicious, reckless, grossly negligent and outrageous in its disregard for the rights and safety of Plaintiff.

113. At all times material hereto, the Diocese's actions were willful, wanton, malicious, reckless, grossly negligent and outrageous in its disregard for the rights and safety of Plaintiff.

114. As a direct and/or indirect result of said conduct, Plaintiff has suffered the injuries and damages described herein.

115. By reason of the foregoing, Defendants jointly, severally and/or in the alternative, are liable to Plaintiff for compensatory damages, and for punitive damages, together with interest and costs.

**SECOND CAUSE OF ACTION: NEGLIGENT HIRING, RETENTION, SUPERVISION,
AND/OR DIRECTION**

116. Plaintiff repeats and realleges by reference each and every allegation set forth above as if fully set forth herein.

117. The School hired Brother Antonio.

118. The Diocese hired Brother Antonio.

119. The School hired Brother Antonio for a position that required him to work closely with, mentor, and counsel young boys and girls.

120. Diocese hired Brother Antonio for a position that required him to work closely with, mentor, and counsel young boys and girls.

121. The School was negligent in hiring Brother Antonio because it knew or should have known, through the exercise of reasonable care, of Brother Antonio's propensity to develop

inappropriate relationships with children in its charge and to engage in sexual behavior and lewd and lascivious conduct with such children.

122. The Diocese was negligent in hiring Brother Antonio because it knew or should have known, through the exercise of reasonable care, of Brother Antonio's propensity to develop inappropriate relationships with children in its charge and to engage in sexual behavior and lewd and lascivious conduct with such children.

123. Brother Antonio would not and could not have been in a position to sexually abuse Plaintiff had he not been hired by the School to mentor and counsel children in the School.

124. Brother Antonio continued to molest Plaintiff while at the School.

125. Brother Antonio would not and could not have been in a position to sexually abuse Plaintiff had he not been hired by Diocese to mentor and counsel children in the School.

126. The harm complained of herein was foreseeable.

127. Plaintiff would not have suffered the foreseeable harm complained of herein but for the negligence of the School in having placed Brother Antonio, and/or allowed Brother Antonio to remain in his position.

128. Plaintiff would not have suffered the foreseeable harm complained of herein but for the negligence of the Diocese in having placed Brother Antonio, and/or allowed Brother Antonio to remain in his position.

129. At all times while Brother Antonio was employed or appointed by the School, he was supervised by the School and/or its agents and employees.

130. At all times while Brother Antonio was employed or appointed by the School, he was under the direction of, and/or answerable to, the School and/or its agents and employees.

131. At all times while Brother Antonio was employed or appointed by the Diocese, he was supervised by the Diocese and/or its agents and employees.

132. At all times while Brother Antonio was employed or appointed by the Diocese, he was under the direction of, and/or answerable to, the Diocese and/or its agents and employees.

133. The School was negligent in its direction and/or supervision of Brother Antonio in that it knew or should have known, through the exercise of ordinary care, that Brother Antonio's conduct would subject third parties to an unreasonable risk of harm, including Brother Antonio's propensity to develop inappropriate relationships with children under his charge and to engage in sexual behavior and lewd and lascivious conduct with such children.

134. The School failed to take steps to prevent such conduct from occurring.

135. The Diocese was negligent in its direction and/or supervision of Brother Antonio in that it knew, or should have known, through the exercise of ordinary care, that Brother Antonio's conduct would subject third parties to an unreasonable risk of harm, including Brother Antonio's propensity to develop inappropriate relationships with children under his charge and to engage in sexual behavior and lewd and lascivious conduct with such children.

136. The Diocese failed to take steps to prevent such conduct from occurring.

137. The School was negligent in its retention of Brother Antonio in that that it knew, or should have known, through the exercise of reasonable care, of his propensity to develop inappropriate relationships with children under his charge and to engage in sexual behavior and lewd and lascivious conduct with such children.

138. The School retained Brother Antonio in his position as mentor and counselor to such children and thus left him in a position to continue such behavior.

139. The Diocese was negligent in its retention of Brother Antonio in that that it knew, or should have known, through the exercise of reasonable care, of his propensity to develop inappropriate relationships with children under his charge and to engage in sexual behavior and lewd and lascivious conduct with such children.

140. The Diocese retained Brother Antonio in his position as mentor and counselor to such children and thus left him in a position to continue such behavior.

141. The School was further negligent in its retention, supervision, and/or direction of Brother Antonio in that Brother Antonio sexually molested Plaintiff on the premises of the School.

142. The School failed to take reasonable steps to prevent such events from occurring on its premises.

143. The Diocese was further negligent in its retention, supervision, and/or direction of Brother Antonio in that Brother Antonio sexually molested Plaintiff on the premises of the Diocese.

144. The Diocese failed to take reasonable steps to prevent such events from occurring on its premises.

145. Brother Antonio would not and could not have been in a position to sexually abuse Plaintiff had he not been negligently retained, supervised, and/or directed by the School as a mentor and counselor to the infant parishioners of the School, including Plaintiff.

146. Brother Antonio would not and could not have been in a position to sexually abuse Plaintiff had he not been negligently retained, supervised, and/or directed by the Diocese as a mentor and counselor to the infant parishioners of the Diocese, including Plaintiff.

147. By reason of the foregoing, Defendants, jointly, severally and/or in the alternative, are liable to Plaintiff for compensatory damages, and for punitive damages, together with interest and costs.

THIRD CAUSE OF ACTION: BREACH OF FIDUCIARY DUTY

148. Plaintiff repeats and realleges by reference each and every allegation set forth above as if fully set forth herein.

149. Through the position to which Brother Antonio was assigned by the School, Brother Antonio was placed in direct contact with Plaintiff.

150. Brother Antonio was assigned as a teacher at the School, assigned to teach Plaintiff.

151. It was under these circumstances that Plaintiff was entrusted to the care of the School and - under its authority - came to be under the direction, control and dominance of, Brother Antonio.

152. As a result, Brother Antonio used his position to sexually abuse and harass Plaintiff.

153. Through the position to which Brother Antonio was assigned by the Diocese, Brother Antonio was put in direct contact with Plaintiff, then a minor.

154. As a result, Brother Antonio used his position to sexually abuse and harass Plaintiff.

155. There existed a fiduciary relationship of trust, confidence, and reliance between Plaintiff and the School.

156. There existed a fiduciary relationship of trust, confidence, and reliance between Plaintiff and the Diocese.

157. Pursuant to its fiduciary relationship, the School was entrusted with the well-being, care, and safety of Plaintiff.

158. Pursuant to its fiduciary relationship, the Diocese was entrusted with the well-being, care, and safety of Plaintiff.

159. Pursuant to its fiduciary relationship, the School assumed a duty to act in the best interests of Plaintiff.

160. Pursuant to its fiduciary relationship, the Diocese assumed a duty to act in the best interests of Plaintiff.

161. The School breached its fiduciary duties to Plaintiff.

162. The Diocese breached its fiduciary duties to Plaintiff.

163. At all times material hereto, the School's actions and/or inactions were willful, wanton, malicious, reckless, grossly negligent and/or outrageous in its disregard for the rights and safety of Plaintiff.

164. At all times material hereto, the Diocese's actions and/or inactions were willful, wanton, malicious, reckless, grossly negligent and/or outrageous in its disregard for the rights and safety of Plaintiff.

165. As a direct result of said conduct, Plaintiff has suffered the injuries and damages described herein.

166. By reason of the foregoing, Defendants, jointly, severally and/or in the alternative, are liable to Plaintiff for compensatory and punitive damages, together with interest and costs.

FOURTH CAUSE OF ACTION: BREACH OF NON-DELEGABLE DUTY

167. Plaintiff repeats and realleges by reference each and every allegation set forth above as if fully set forth herein.

168. Plaintiff, when a minor, was placed in the care of the School for the purposes of, inter alia, providing Plaintiff with a safe environment to receive an education.

169. As a result, there existed a non-delegable duty of trust between Plaintiff and the School.

170. When Plaintiff was a minor, Plaintiff was placed in the care of the Diocese for the purposes of, *inter alia*, providing Plaintiff with a safe environment to receive an education.

171. As a result, there existed a non-delegable duty of trust between Plaintiff and the Diocese.

172. Plaintiff was a vulnerable child when placed within the care of the School.

173. Plaintiff was a vulnerable child when placed within the care of the Diocese.

174. Consequently, the School was in the best position to prevent Plaintiff's abuse, and to learn of Brother Antonio's repeated sexual abuse of Plaintiff and stop it.

175. Consequently, the Diocese was in the best position to prevent Plaintiff's abuse, and to learn of Brother Antonio's repeated sexual abuse of Plaintiff and stop it.

176. By virtue of the fact that Plaintiff was sexually abused as a minor student entrusted to the care of the School, the School breached its non-delegable duty to Plaintiff.

177. By virtue of the fact that Plaintiff was sexually abused as a minor student entrusted to the care of the Diocese, the Diocese breached its non-delegable duty to Plaintiff.

178. At all times material hereto, Brother Antonio was under the direct supervision, employ and/or control of the School.

179. At all times material hereto, Brother Antonio was under the direct supervision, employ and/or control of the Diocese.

180. As a direct result of said conduct, Plaintiff has suffered the injuries and damages described herein.

181. By reason of the foregoing, Defendants, jointly, severally and/or in the alternative, are liable to Plaintiff for compensatory and punitive damages, together with interest and costs.

FIFTH CAUSE OF ACTION: BREACH OF DUTY *IN LOCO PARENTIS*

182. Plaintiff repeats and realleges by reference each and every allegation set forth above as if fully set forth herein.

183. Plaintiff was a minor when his parents entrusted him to the control of the School for the purpose of, *inter alia*, providing Plaintiff with an education.

184. The School owed a duty to adequately supervise its students to prevent foreseeable harms and injuries.

185. As a result, the School owed a duty to Plaintiff *in loco parentis*.

186. Plaintiff was a minor when his parents entrusted him to the control of the Diocese for the purposes of, *inter alia*, providing Plaintiff with an education.

187. The Diocese owed a duty to adequately supervise its students to prevent foreseeable injuries.

188. As a result, the Diocese owed a duty to Plaintiff *in loco parentis*.

189. The School breached its duty *in loco parentis*.

190. The Diocese breached its duty *in loco parentis*.

191. At all times material hereto, the School's actions were willful, wanton, malicious, reckless, negligent, grossly negligent and/or outrageous in its disregard for the rights and safety of Plaintiff.

192. At all times material hereto, the Diocese's actions were willful, wanton, malicious, reckless, negligent, grossly negligent and/or outrageous in its disregard for the rights and safety of Plaintiff.

193. As a direct result of the School's conduct, Plaintiff has suffered the injuries and damages described herein.

194. As a direct result of the Diocese's conduct, Plaintiff has suffered the injuries and damages described herein.

195. By reason of the foregoing, Defendants, jointly, severally and/or in the alternative, are liable to Plaintiff for compensatory and punitive damages, together with interest and costs.

**SIXTH CAUSE OF ACTION: INTENTIONAL INFILCTION OF
EMOTIONAL DISTRESS**

196. Plaintiff repeats and realleges by reference each and every allegation set forth above as if fully set forth herein.

197. At the time Brother Antonio molested Plaintiff, which Brother Antonio knew would cause, or disregarded the substantial probability that it would cause, severe emotional distress, the School employed Brother Antonio as Plaintiff's mentor and counselor.

198. It was part of Brother Antonio's job as role model and mentor to gain Plaintiff's trust.

199. Brother Antonio used his position, and the representations made by the School about his character that accompanied that position, to gain Plaintiff's trust and confidence and to create opportunities to violate Plaintiff.

200. At the time Brother Antonio molested Plaintiff, which Brother Antonio knew would cause, or disregarded the substantial probability that it would cause, severe emotional distress, the Diocese employed Brother Antonio as Plaintiff's mentor and counselor.

201. Brother Antonio used his position, and the representations made by the Diocese about his character that accompanied that position, to gain Plaintiff's trust and confidence and to create opportunities to violate Plaintiff.

202. The School knew and/or disregarded the substantial probability that Brother Antonio's conduct would cause severe emotional distress to Plaintiff.

203. The Diocese knew and/or disregarded the substantial probability that Brother Antonio's conduct would cause severe emotional distress to Plaintiff.

204. Plaintiff suffered severe emotional distress, including psychological and emotional injury as described above.

205. This distress was caused by Brother Antonio's sexual abuse of Plaintiff.

206. The sexual abuse of Plaintiff was extreme and outrageous conduct, beyond all possible bounds of decency, atrocious and intolerable in a civilized community.

207. The School is liable for Brother Antonio's conduct under the doctrine of *respondeat superior*.

208. The Diocese is liable for Brother Antonio's conduct under the doctrine of *respondeat superior*.

209. By reason of the foregoing, Defendants, jointly, severally and/or in the alternative, are liable to Plaintiff for compensatory and punitive damages, together with interest and costs.

**SEVENTH CAUSE OF ACTION: NEGLIGENT INFILCTION OF
EMOTIONAL DISTRESS**

210. Plaintiff repeats and realleges by reference each and every allegation set forth above as if fully set forth herein.

211. As set forth at length herein, the actions of the School, its predecessors and/or successors, agents, servants and/or employees, were conducted in a negligent and/or grossly negligent manner.

212. As set forth at length herein, the actions of the Diocese, its predecessors and/or successors, agents, servants and/or employees were conducted in a negligent and/or grossly negligent manner.

213. The School's actions endangered Plaintiff's safety and caused him to fear for his own safety.

214. The Diocese's actions endangered Plaintiff's safety and caused him to fear for his own safety.

215. As a direct and proximate result of the School's actions, which included but were not limited to, negligent and/or grossly negligent conduct, Plaintiff suffered the severe injuries and damages described herein, including but not limited to, mental and emotional distress.

216. As a direct and proximate result of the Diocese's actions, which included but were not limited to, negligent and/or grossly negligent conduct, Plaintiff suffered the severe injuries and damages described herein, including but not limited to, mental and emotional distress.

217. In addition to its own direct liability for negligently inflicting emotional distress on Plaintiff, the School is also liable for Brother Antonio's negligent infliction of emotional distress under the doctrine of *respondeat superior*.

218. At the time Brother Antonio breached his duty to Plaintiff, Brother Antonio was employed as Plaintiff's teacher, mentor and counselor by the School.

219. It was part of Brother Antonio's job a teacher, role model and mentor to gain Plaintiff's trust. Brother Antonio used his position, and the representations made by the School about his character that accompanied that position, to gain Plaintiff's trust and confidence and to create opportunities to be alone with, and touch, Plaintiff.

220. In addition to its own direct liability for negligently inflicting emotional distress on Plaintiff, the Diocese is also liable for Brother Antonio's negligent infliction of emotional distress under the doctrine of *respondeat superior*.

221. At the time Brother Antonio breached his duty to Plaintiff, Brother Antonio was employed as Plaintiff's teacher, mentor and counselor by the Diocese.

222. It was part of Brother Antonio's job as role model and mentor to gain Plaintiff's trust. Brother Antonio used his position, and the representations made by the Diocese about his character that accompanied that position, to gain Plaintiff's trust and confidence and to create opportunities to be alone with, and touch, Plaintiff.

223. By reason of the foregoing, Defendants, jointly, severally and/or in the alternative, are liable to Plaintiff for compensatory damages and punitive damages, together with interest and costs.

**EIGHTH CAUSE OF ACTION: BREACH OF STATUTORY DUTY TO REPORT
ABUSE UNDER SOC. SERV. LAW §§ 413 and 420**

224. Plaintiff repeats and realleges by reference each and every allegation set forth above as if fully set forth herein.

225. Pursuant to N.Y. Soc. Serv. Law §§ 413 and 420, the School, including but not limited to its teachers, administrators, and other school personnel, had a statutorily imposed duty to report reasonable suspicion of abuse of children in its care.

226. Pursuant to N.Y. Soc. Serv. Law §§ 413 and 420, the Diocese, including but not limited to its teachers, administrators, and other school personnel, had a statutorily imposed duty to report reasonable suspicion of abuse of children in its care.

227. The School breached that duty by knowingly and willfully failing to report reasonable suspicion of abuse by Brother Antonio of children in its care.

228. The Diocese breached that duty by knowingly and willfully failing to report reasonable suspicion of abuse by Brother Antonio of children in its care.

229. As a direct and/or indirect result of said conduct, Plaintiff has suffered injuries and damages described herein.

230. By reason of the foregoing, Defendants, jointly, severally and/or in the alternative, are liable to plaintiff for compensatory damages, and for punitive damages, together with interest and costs.

NINTH CAUSE OF ACTION: BATTERY

231. Plaintiff repeats and realleges by reference each and every allegation set forth above as if fully set forth herein.

232. By the acts of Brother Antonio described hereinabove, Brother Antonio intentionally and maliciously sexually assaulted, battered, molested, abused, raped and otherwise injured Plaintiff.

233. The offensive and harmful contact of Brother Antonio as alleged herein was performed by Brother Antonio without the consent of Plaintiff.

234. At all times material hereto, Brother Antonio acted with reckless disregard for the safety and well-being of Plaintiff.

235. At all times material hereto, Brother Antonio acted willfully, wantonly, maliciously, and recklessly.

236. At all times material hereto, Brother Antonio was under the direct supervision, employ and/or control of the School.

237. At all times material hereto, Brother Antonio was under the direct supervision, employ and/or control of the Diocese.

238. As a direct result of said conduct, Plaintiff has suffered the injuries and damages described herein.

239. By reason of the foregoing, Defendants, jointly, severally and/or in the alternative, are liable to Plaintiff for compensatory and punitive damages, together with interest and costs.

TENTH CAUSE OF ACTION: ASSAULT

240. Plaintiff repeats and realleges by reference each and every allegation set forth above as if fully set forth herein.

241. At all times material hereto, the acts of Brother Antonio described hereinabove placed Plaintiff in reasonable fear of harmful and injurious contact, including but not limited to further and continued intentional and malicious sexual assault, molestation, battery, abuse, and rape.

242. At all times material hereto, Brother Antonio acted with reckless disregard for the safety and well-being of Plaintiff.

243. At all times material hereto, Brother Antonio acted willfully, wantonly, maliciously, and recklessly.

244. At all times material hereto, Brother Antonio was under the direct supervision, employ and/or control of the School.

245. At all times material hereto, Brother Antonio was under the direct supervision, employ and/or control of the Diocese.

246. By reason of the foregoing, Defendants, jointly, severally and/or in the alternative, are liable to Plaintiff for compensatory and punitive damages, together with interest and costs.

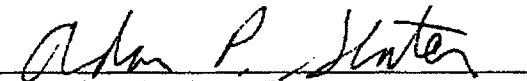
247. The limitations of liability set forth in Article 16 of the CPLR do not apply to the causes of action alleged herein.

WHEREFORE, it is respectfully requested that the Court grant judgment in this action in favor of the Plaintiff, and against the Defendants, in a sum of money in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction, together with all applicable interest, costs, disbursements, as well as punitive damages and such other, further and different relief as the Court in its discretion shall deem to be just, proper and equitable.

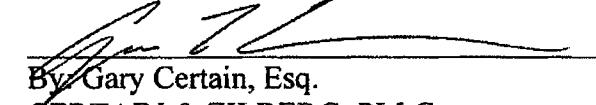
Plaintiff further places Defendants on notice and reserves the right to interpose claims sounding in Fraudulent Concealment, Deceptive Practices and/or Civil Conspiracy should the facts and discovery materials support such claims.

Dated: New York, New York
October 28, 2019

Yours, etc.,


By: Adam P. Slater, Esq.
SLATER SLATER SCHULMAN LLP
Counsel for Plaintiff
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New York, New York 10022
(212) 922-0906

-and-


By: Gary Certain, Esq.
CERTAIN & ZILBERG, PLLC
Counsel for Plaintiff
488 Madison Avenue, 20th Floor
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INDIVIDUAL VERIFICATION

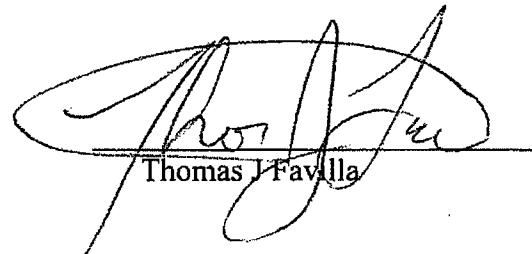
STATE OF NEW YORK

ss.:

COUNTY OF SUFFOLK

Thomas J Favilla being duly sworn deposes and says:

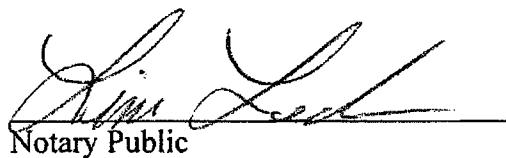
I am the plaintiff herein; I have read the annexed Complaint and know the contents thereof and the same are true to my knowledge, except those matter therein which are stated to be alleged on information and belief, and as to those matters, I believe them to be true.



Thomas J Favilla

Sworn to before me this

29 day of October, 2019



Linc Leder
Notary Public

LINC LEDER
NOTARY PUBLIC-STATE OF NEW YORK
No. 02LE6202051
Qualified in Suffolk County
My Commission Expires 03-09-2021

SUPREME COURT OF THE STATE NEW YORK
COUNTY OF SUFFOLK

THOMAS FAVILLA,

Index No.:

Plaintiff,

- against -

BROTHER ANTONIO MONTERA, ST. ANTHONY'S
HIGH SCHOOL, and THE DIOCESE OF ROCKVILLE
CENTRE,

Defendants.

X

SUMMONS & VERIFIED COMPLAINT

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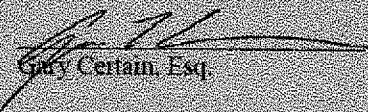
Certain & Zilberg, PLLC
Attorneys For Plaintiff
488 Madison Avenue, 20th Floor
New York, New York 10022

(212)687-7800**CERTIFICATION**

Pursuant to 22 NYCRR §130-1.1-a, the undersigned, an attorney duly admitted to practice in the courts of the State of New York, certifies that, upon information and belief, and reasonable inquiry, the contentions contained in the annexed document are not frivolous as defined in subsection (c) of the aforesaid section.



Adam P. Slater, Esq.



Gary Certain, Esq.